

CHAPTER: 300

Business/Budget

DEPARTMENT ORDER:

308 – Management of RICO Funds

**OFFICE OF PRIMARY
RESPONSIBILITY:**

IG

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ACCESS

Contains Restricted Section(s)

Arizona Department of Corrections Rehabilitation and Reentry



Department Order Manual

A handwritten signature in black ink, appearing to be "David Shinn", written over a horizontal line.

David Shinn, Director

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PURPOSE

This Department Order provides a consistent and uniform method of acquisition, disbursement, approval and reporting of Racketeering Influenced Corrupt Organizations (RICO) funds.

RESPONSIBILITY

This Department Order applies to any conduct giving rise to forfeiture under A.R.S. Title 13, Chapter 23, Chapter 34 or Chapter 39, which occurs within the jurisdiction of, or comes to the attention of, the Department.

PROCEDURES

1.0 RICO ASSET FORFEITURE PROGRAM

1.1 The Inspector General shall:

- 1.1.1 Establish a RICO Asset Forfeiture Program (AFP).
- 1.1.2 Appoint a RICO Fund Coordinator to administer the AFP.
- 1.1.3 In conjunction with the Financial Services Division and the Chief Procurement Officer, enter into Intergovernmental Agreements with each county for evidence retention services.

1.2 The RICO Fund Coordinator shall:

- 1.2.1 Serve as liaison between case officers and the various county, state and federal agencies to monitor and track assets from seizure to court award.
- 1.2.2 Monitor the status of assets or cash seized for forfeiture, account for asset-related expenditures, coordinate the assignment of forfeited assets, and document and report the use of forfeited assets.
 - 1.2.2.1 A file shall be established and maintained by case name and number to document all information pertaining to seizure of cash.
- 1.2.3 Ensure that all funds forfeited are deposited into the Attorney General's ADC RICO account.

1.3 Criminal Investigations Units shall:

- 1.3.1 Seize evidence, property or funds, discovered to be within the Department's jurisdiction, and determine if the seized item(s) are subject to forfeiture.
- 1.3.2 Ensure that seized evidence, even if subject to forfeiture, is preserved in accordance with Department Order #909, Inmate Property, until the final resolution of any pending criminal case that has arisen in connection with the property.
- 1.3.3 Ensure that seized cash that is subject to forfeiture is deposited in an interest-bearing account maintained by the appropriate prosecuting agency when it is no longer needed as evidence.

1.3.4 Ensure that seized property that is not evidence is maintained in a manner that will reasonably preserve its value.

1.3.5 For every instance in which RICO property or funds are seized for forfeiture, notify the RICO Fund Coordinator by email.

2.0 ACCOUNTING FOR FORFEITED ASSETS/FUNDS – The RICO Fund Coordinator shall:

2.1 Arrange with the county of jurisdiction for the disposal of forfeited assets, the proceeds of which shall be deposited with the Office of the Attorney General.

2.2 Coordinate with the Financial Services Division the acquisition and disposition of those forfeited assets that will be used by the Department, in accordance with Department Order #304, Inventory and Fixed Assets Management.

2.3 Report quarterly to the Inspector General the type, amount and availability of forfeited assets or funds.

2.4 Forward forfeited cash to the Office of the Attorney General for deposit into the Department's RICO account. The forfeited cash shall be documented on the Criminal Justice Commission RICO Revenue & Expenditure spreadsheet.

2.4.1 The completed spreadsheet must be submitted quarterly to the Criminal Division of the Office of the State of Arizona Attorney General on or before January 28, April 28, July 28, and October 28 of each year, for each previous quarter.

3.0 DISBURSEMENT OF RICO FUNDS

3.1 Requests for use of forfeited funds shall be submitted, via memorandum, through each Assistant Director, to the RICO Fund Coordinator, who shall present them to the Inspector General for consideration.

3.2 The Inspector General or designee shall seek an opinion from the Department's Attorney General Liaison prior to presenting the recommended list to the Director for approval.

3.3 Qualified disbursements are listed in A.R.S. §13-2314.01(D), §13-2314.03, §13-4315(C) and the "Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies," published in April 2009 by the Department of Justice, Criminal Division, Asset Forfeiture and Money Laundering Section, and include, but are not limited to:

3.3.1 Law enforcement investigations, which can include support of investigations and operations (e.g., costs of investigating and prosecuting racketeering offenses, and including payments to informants)

3.3.2 Law enforcement equipment and training

3.3.3 Drug and gang education and awareness programs

3.4 The RICO Fund Coordinator shall:

3.4.1 Submit approved requests for disbursements to the Chief Counsel, Criminal Division, Office of the Attorney General.

3.4.2 Transmit checks received from the Office of the Attorney General to the Financial Services Division for deposit into appropriate accounts to pay for approved projects.

4.0 DISBURSEMENT OF PROPERTY OR CASH NOT FORFEITED BY THE COURT – If property or cash is not forfeited, it shall be returned by the applicable prosecution agency, with any interest earned on cash, to the person who is determined by the court to be the rightful owner.

DEFINITIONS/GLOSSARY

Refer to the Glossary of Terms for the following:

- Evidence
- Forfeited Assets or Cash
- RICO Funds
- Seized Assets or Cash
- Seizing Agency
- Seizure for Forfeiture

AUTHORITY

A.R.S. § 13-2314.01 through § 13-2314.03, Racketeering; Civil Remedies by this State

A.R.S. § 13-4315, Allocation of Forfeited Property